

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No. 11507 of 2020

Sathis Kumar @ Kuppan

...Petitioner

Vs.

The State

Rep. By Inspector of Police

Vellore North Police Station (L&O)

Vellore District

(Crime No.391 of 2013)

...Respondent

PRAYER: Criminal Original Petition is filed under section 482 Cr.P.C praying to call for the records and set aside the bail cancellation order in Cr.M.P.No.148 of 2019 in S.C.No.132 of 2019 dated 12.09.2019 on the file of Additional District Judge (Fast Track Court) Vellore and enlarged the petitioner on bail, pending trial in S.C.No.132 of 2019 on the file of Additional District Judge, (Fast Track Court) Vellore, to secure the ends of justice.

For Petitioner : Mr.P.Sankara Subbu

For Respondents : Mr.S.Karthikeyan

Additional Public Prosecutor.

सत्यमेव जयते
ORDER

This petition has been filed challenging the order passed in CrI.M.P.No.148 of 2019 in S.C.No.132 of 2019 dated 12.09.2019 on the file of the learned Additional District Judge, FTC Court, Vellore.

2.The learned counsel for the petitioner would submit that the petitioner was already enlarged on bail in S.C.No.132 of 2019 and the said case has been taken cognizance for the offence under section 120(b), 148, 302, 506(ii) and 322 IPC r/w.34 and 109 IPC. Even then, he

could not come out from the prison. He was already convicted in S.C.No.124 of 2018 on the file of the Assistant Sessions Court, Vellore. The petitioner was repeatedly produced on PT warrant before the trial Court in S.C.No.132 of 2019. While being so, the trial Court without any jurisdiction, without any notice to the petitioner, mechanically cancelled the bail granted to the petitioner in S.C.No.132 of 2019, only for the reason that, the petitioner is produced on PT warrant repeatedly and for the convenience of trial, his bail was cancelled. Now the conviction in S.C.No.124 of 2018, is under challenge in Criminal Appeal No.754 of 2019 before this Court. Even if the petitioner is granted bail by this Court, he could not able to come out from the prison since the bail granted in S.C.No.132 of 2019 now is cancelled.

3. The learned Additional Public Prosecutor submitted that the petitioner is a habitual offender and leader of one group and the deceased is leader of another group. Further, he would submit that only for the purpose of trial, the bail granted to the petitioner is cancelled. Now he is also convicted in S.C.No.124 of 2018 and the appeal is pending before this Court. So far, his sentence is not yet suspended by this Court and as such, the trial Court rightly cancelled the bail granted by this Court.

4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent.

5. It is seen that the petitioner is an accused in S.C.No.132 of 2019 for the offence under sections 120(b), 148, 302, 506(ii) and 324 IPC r/w.34 and 109 IPC. The petitioner was already granted bail in CrI.M.P.No.4443 of 2014 dated 10.12.2013. Thereafter, the petitioner was taken custody in pursuant to another Crime in S.C.No.124 of 2018 on the file of the learned Assistance Sessions Court, Vellore. In the present case, the respondent filed the final report and the same has been taken cognizance. The Principal District and Sessions Court, Vellore made over the case to the file of Additional District Judge, FTC, Vellore for trial. On receipt of the petition filed by the respondent, in CrI.M.P.No.148 of 2019, the trial Court cancelled the bail granted to the petitioner in CMP.No.4443 of 2014 dated 10.12.2013 on the file of the learned Judicial Magistrate-IV, Vellore. Though, the bail was granted to the petitioner by the Judicial Magistrate, it has to be cancelled only by the Principal Sessions Court

and not by the trial Court. Therefore, the trial Court has no jurisdiction to entertain the petition filed by the respondent for cancellation of bail to the petitioner herein. Further, the reason stated by the trial Court for cancellation of bail is also inadequate one. Since, the petitioner was already in custody in respect of S.C.No.124 of 2018 on the file of the Assistance Sessions Court, Vellore, he is repeatedly produced before the trial Court in S.C.No.132 of 2019 on PT warrant. though, the petitioner was convicted in S.C.No.124 of 2018. Aggrieved by the same, the petitioner preferred an appeal in Crl.A.No.754 of 2019 and it is pending before this Court.

6. Considering the above facts and circumstances, the order passed in Crl.M.P.No.148 of 2019 in S.C.No.132 of 2019 by the trial court - Additional District Judge (Fast Track Court), Vellore, Vellore District, dated 12.09.2019, is set aside. Accordingly, this criminal original petition is allowed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mpa

To

1. The Additional District Judge,
Fast Track Court, Vellore.
2. Principal District Judge, Vellore.
3. The Inspector of Police,
Vellore North Police Station (L&O)
Vellore District.
4. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No. 11507 of 2020

GJ(CO)

KKV/09/10/2020